



**OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION**

**From The Office Of State Auditor
Claire McCaskill**

**Report No. 2002-37
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AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

May 2002

The following problems were discovered as a result of an audit conducted by our office of the Office of Administration, Missouri Ethics Commission.

The Missouri Ethics Commission (MEC) is required by state law to establish an electronic reporting system for lobbyist, campaign finance, and personal financial disclosure reporting. The MEC has not complied with the provisions of these laws in a timely manner.

State law required the commission to have an electronic lobbyist reporting system ready by January 1, 1998, and to make lobbyist information available to the public on an internet web site by January 1, 1999. However, the commission did not complete the lobbyist reporting system until October 1999, and the internet web site was not established until December 2000. State law required the commission to establish an electronic campaign finance disclosure reporting system in time for the 1998 elections. However, the commission did not have the electronic system operational until November 2001, and was available for use starting with the quarterly reports due April 15, 2002.

The commission contracted with a vendor to develop the electronic systems for lobbyist and campaign finance disclosure reporting, which cost the state \$472,000. The audit noted concerns related to how the commission administered the contracts for the development of the electronic reporting systems and said these systems should have been implemented in a more timely manner. The commission experienced several problems with the contractor's software and ultimately filed lawsuits against the vendor. After settlement of the lawsuits, the commission was still not satisfied that the systems were functioning properly. As a result, the commission decided to scrap the vendor's systems and develop the systems in-house.

The audit also questioned why the commission did not implement an electronic reporting system for personal financial disclosure. The commission does not believe the law requires an electronic system, but agreed to ask the Attorney General for his interpretation of the law.

The MEC's current reporting systems do not allow users functionality similar to other state's web sites. Missouri's lobbyist system only allows users to access a list of lobbyists and principals, view lobbyist monthly reports filed (since December 2000), and do searches for lobbyist expenditures made for or on behalf of certain state elected officials only. Other states allow searches based on user defined criteria and the ability to sort, summarize, and download information from the system.

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YELLOW SHEET

The MEC's enforcement authority is often limited or non-existent because the state laws are vague, confusing, inconsistent, and contain numerous exceptions to the various reporting requirements. The report notes examples and recommends the MEC pursue statutory changes to ensure the laws include appropriate enforcement provisions.

The MEC did not assess penalties for late filings of monthly expenditure reports by lobbyists from January 1, 1998 through January 31, 2001. In addition, the MEC has not assessed penalties for late campaign finance disclosure reports since 1997. The purpose of the late filing penalty is to encourage compliance with the timeliness requirements of the applicable statutes. Failure to assess these penalties nullifies their deterrent effect and could lead to greater noncompliance. In addition, the law does not authorize the MEC to postpone the billing of these penalties; instead, it requires the MEC to provide timely notification to late and/or non-filers.

The law requires the MEC to review and audit lobbyist reports, campaign finance disclosure reports, and personal financial disclosure reports. However, the MEC does not audit these reports unless a complaint is filed under state law. It appears the MEC is adequately reviewing reports for timeliness and ensuring these reports are filled out properly and signed. In addition, the MEC performs some crosschecks. However, the MEC cannot determine if reports are accurate and complete unless the MEC performs audits of reports.

The Missouri Ethics commission was created by the Missouri Ethics Law of 1991. The law provides for the MEC to have responsibilities for the enforcement of conflict of interest and lobbying laws and campaign finance disclosure laws. The MEC also issues official opinions that the requestor may rely on as a defense.

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OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION

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STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Bob Holden, Governor
and
Members of the Missouri Ethics Commission
and
Robert F. Connor, Executive Director
Missouri Ethics Commission
Jefferson City, MO 65102

We have audited the Missouri Ethics Commission. The scope of this audit included, but was not necessarily limited to, the years ended June 30, 2001 and 2000. The objectives of this audit were to:

1. Review certain management practices and financial information for compliance with applicable constitutional provisions, statutes, regulations, and administrative rules.
2. Review the efficiency and effectiveness of certain management practices.
3. Review certain revenues received and expenditures made by the Missouri Ethics Commission.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances. Section 105.955 (17), RSMo 2000, does not allow the State Auditor's Office to review any file or document pertaining to any particular investigation, audit or review by the Missouri Ethics Commission. As a result of this restriction on our access to such records, we could not determine if the commission had complied with laws pertaining to such investigations. However, we did review the commission's revenues, expenditures, contracts, applicable legal provisions, rules and regulations, and other pertinent procedures and documents, and interviewed appropriate personnel.

As part of our audit, we assessed the commission's management controls to the extent we determined necessary to evaluate the specific matters described above and not to provide assurance on those controls. With respect to management controls, we obtained an

understanding of the design of relevant policies and procedures and whether they have been placed in operation and we assessed control risk.

Our audit was limited to the specific matters described above and was based on selective tests and procedures considered appropriate in the circumstances. Had we performed additional procedures, other information might have come to our attention that would have been included in this report.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the commission's management and was not subjected to the procedures applied in the audit of the Missouri Ethics Commission.

The accompanying Management Advisory Report presents our findings arising from our audit of the Missouri Ethics Commission.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" and last name "McCaskill" clearly distinguishable.

Claire McCaskill
State Auditor

October 3, 2001 (fieldwork completion date)

The following auditors participated in the preparation of this report:

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MANAGEMENT ADVISORY REPORT –
STATE AUDITOR’S FINDINGS

OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1.	Statutory Requirements
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The Missouri Ethics Commission (MEC) has the responsibility for the enforcement of conflict of interest and lobbying laws (Section 105.450-498, RSMo) and campaign finance disclosure laws (Chapter 130, RSMo). The MEC's enforcement authority is often limited or non-existent because the state laws are vague, confusing, inconsistent, and contain numerous exceptions to the various reporting requirements. Examples of problems we noted are as follows:

Lobbyist reporting

Section 105.473.12, RSMo 2000, requires each lobbyist or lobbyist principal to file a report describing proposed legislation or actions supported or opposed. This report is due twice a year on March fifteenth and May thirtieth. However, the law allows either the lobbyist or lobbyist principal to file this report and some principals have numerous lobbyists. As a result, the law makes it difficult for the MEC to determine if all required reports were filed. In addition, it is difficult for the MEC to file these reports and locate them upon request. The MEC could not locate two out of eleven reports we selected for review. In addition, the law does not allow the MEC to assess a penalty for late filers or non-filers.

Campaign finance disclosure reporting

Section 130.056.2(9), RSMo 2000, allows the MEC to assess a late filing fee if a candidate for state or local office fails to file a report on time. The MEC has interpreted the use of the word "candidate" in this law to exclude other persons or groups required to file a campaign finance disclosure report but not considered a candidate. These other persons or groups include political parties, all committees other than candidate committees, candidates who lost the primary or general election, and elected officials. In addition, this law does not allow the MEC to assess a late filing fee for candidates who file a statement of limited activity instead of a campaign finance disclosure report.

Personal financial disclosure reporting

Section 105.485.4, RSMo 2000, allows a political subdivision to adopt an ordinance establishing its own method of disclosing potential conflicts of interest. Adopting this ordinance limits the number of employees of the political subdivision that have to file a report with the MEC and allows them to file a short form report (employees of political subdivisions not adopting such an ordinance must file a long form). However, the law does not allow the MEC to charge a penalty for non-filers or late filers of the short form.

Section 105.955.18, RSMo 2000, allows the MEC to request a political subdivision to submit a listing of persons designated as decision-making public servants, who are required by law to file a personal financial disclosure report. The law allows the political subdivision 30 days from the date of the request to submit the list to the MEC. We noted 18 political subdivisions in 2000 that did not comply with the MEC's request for a listing. The law does not allow the MEC to charge a penalty if a political subdivision fails to file the listing.

Failure to have clear, well-written laws limits the MEC's ability to effectively monitor and enforce compliance with Chapter 105 and Chapter 130.

WE RECOMMEND the MEC pursue statutory changes to Chapters 105 and 130 to ensure the laws include appropriate enforcement provisions.

AUDITEE'S RESPONSE

In its Management Advisory Report, the Auditor states that the Commission's enforcement authority "is often limited or non-existent because the state laws are vague, confusing, inconsistent, and contain numerous exceptions to the various reporting requirements." The Auditor's Report provides examples to support their position, and recommends that the Commission "pursue statutory changes to Chapters 105 and 130 to ensure the laws include appropriate enforcement provisions."

The Commission and staff, in cooperation with members of the General Assembly, have developed and submitted proposed statutory changes to Chapters 105 and 130, RSMo, during past legislative sessions, as well as the current legislative session. In each of those sessions, the Commission staff has worked directly with sponsors and other members of the legislature in an effort to make changes to these two chapters, and members of the legislature have supported proposed legislation that would address the issues raised by the Auditor's office. The Commission staff will continue to work with the General Assembly to address these issues as per the Auditor's recommendation.

2. Electronic Reporting Systems
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- A. The MEC is required by Sections 105.477 and 130.057, RSMo 2000, respectively, to establish an electronic reporting system for lobbyist, campaign finance, and personal financial disclosure reporting. The MEC has not complied with the provisions of these laws in a timely manner.

Lobbyist reporting

Section 105.477, RSMo 2000, required the MEC to have appropriate hardware and software in place by January 1, 1998, to allow lobbyists to submit reports electronically. In addition, the law required the MEC to make this information available to the public on an internet web site no

later than January 1, 1999. Lobbyist filing software was made available in October 1999 and the internet web site was established in December 2000.

Campaign finance disclosure reporting

Section 130.057, RSMo 2000, required the MEC to establish an electronic reporting system for campaign finance in time for the 1998 election. After this deadline was missed, the law was changed which allowed the MEC additional time to implement the electronic reporting system. The revised law simply required the MEC to certify, to all candidates and committees required to file these reports, when the electronic reporting system is established and implemented. Electronic reporting was to become mandatory on January 1, 2000, or the primary election after certification. On November 27, 2001, the MEC certified that the electronic reporting system for campaign finance disclosure reports was working and would be available for use starting with quarterly reports due April 15, 2002.

Personal financial disclosure reporting

The MEC does not have an electronic reporting system for personal financial disclosure reports and has no plans to develop such a system. MEC officials indicated they do not believe the law requires an electronic reporting system for personal financial disclosure forms, but would ask the Attorney General for his interpretation. Section 130.057 (2), RSMo 2000, requires the MEC to establish a campaign finance and **financial interest disclosure** electronic reporting system.

The MEC began the process of implementing the electronic reporting systems in 1997. The MEC contracted with a vendor to develop the campaign finance reporting system for a cost of \$285,000. The contract was awarded on May 22, 1997, and required the system to be implemented by October 6, 1997. On July 1, 1997, the MEC paid the vendor the entire contract amount of \$285,000, even though work under the contract was still in progress. MEC officials indicated they made the payment because they were concerned whether the appropriation would be available to them after the end of fiscal year 1997.

The MEC contracted with the same vendor to develop the lobbyist reporting system for a cost of \$187,000. The contract was awarded on October 21, 1997, and required the system to be implemented by December 1, 1997. The MEC experienced several problems with the software and ultimately filed lawsuits against the vendor for non performance pertaining to each contract. The Circuit Court ordered the state and the vendor to mediate their concerns. In April 1999, the parties agreed to hire an independent computer expert to evaluate the systems. In July 1999, the expert completed his independent review and concluded the software was functional and met the requirements of the contract. As a result, the lawsuits were settled under mediation in September 1999 and the MEC paid the vendor the \$187,000 for the lobbyist reporting system on September 15, 1999.

Although both contracts included deadlines for implementation, they did not specify any damages for late delivery. In addition, the contracts did not specify what system features and capabilities had to be implemented by the contract deadline versus what features and capabilities could be added during the maintenance period, subsequent to the implementation date.

After settlement of the lawsuits, the MEC was still not satisfied that the systems were functioning properly. As a result, the MEC decided to scrap the vendor's systems and develop the systems in-house. This process began in January 2000, when the MEC hired a Director of Information Services. The in-house staff used approximately 3,600 hours to develop and test the lobbyist reporting system and the web site was established in December 2000. The campaign finance reporting system also took about 3,600 hours and was certified by the MEC as being ready in November 2001.

The contracts for the electronic reporting systems for campaign finance and lobbyists were poorly administered and managed, and these systems should have been implemented in a more timely manner. In addition, the MEC should develop the system for personal finance disclosure as soon as possible.

- B. The MEC's current reporting systems do not allow users functionality similar to other state web sites. Missouri's lobbyist system only allows users to access a list of lobbyists and principals, view lobbyist monthly reports filed (since December 2000), and do searches for lobbyist expenditures made for or on behalf of certain state elected officials only. The law requires lobbyists to report expenditures made for or on behalf of the following:

- Any member of the general assembly.
- Any member-elect of the general assembly.
- Judge or judicial officer.
- Any other person holding an elective office of state government.
- State department and division directors.
- Members of state boards and commissions.
- State employees who have been designated as decision-making public servants.
- The public official's staff, spouse, or dependent children.

However, the MEC's web site only allows the user to make searches on statewide elected officials, members of the general assembly, and supreme court judges.

When compared to similar reporting systems in some other states, Missouri's lobbyist system does not currently allow for the following:

- Reports of total expenditures for an individual lobbyist or a particular principal. In Missouri's system, the user can only review the monthly

reports. The web site does not give the user the capability to summarize data for multiple months.

- Reports of expenditures made for or on behalf of other than state elected officials (as discussed above).
- Perform searches by lobbying activity or purpose.
- Perform searches by dollar amount, date, or type of expenditure.
- Sort information by lobbyist name, amount, official name, date, and/or expenditure type.
- Download information from the database.
- View lists of non-filers and late filers.

MEC officials indicated the initial lobbyist reporting system is a “bare bones” system and the MEC has plans to update the system and make it more functional.

Missouri's campaign finance system only allows users to view reports filed during 2001 and only some of the reports for prior years. No other functionality is available. MEC officials indicated that imaging reports is the first stage in implementing this system and the full system will be available for use starting with quarterly reports due April 15, 2002. The MEC should design these systems to provide more functionality for the public.

WE RECOMMEND the MEC:

- A. Implement the electronic reporting systems for campaign finance and personal financial disclosure as soon as possible.
- B. Update all reporting systems to provide more functionality for the public.

AUDITEE'S RESPONSE

- A. *The Auditor's Report recommends that the Commission implement an electronic reporting system for campaign finance and personal financial disclosure as soon as possible, and update all reporting systems to provide more functionality for the public. Regarding the recommendation for the implementation of an electronic reporting system for campaign finance, the Missouri Ethics Commission has designed, developed, and is implementing a web-based electronic reporting system for campaign finance. Specifically, campaign finance reports filed on paper for the year 2001 have been electronically imaged or scanned, and are available for public viewing both on the Internet and at the Commission offices. Based on the current status of the program, in the spring of 2002 candidates for statewide office who receive or spend over \$5,000 in any reporting period and continuing committees that receive or spend over \$15,000 in the applicable calendar year will file their reports electronically as per Sec. 130.057 RSMo. When the latter portion of the system is completed, both the imaged reports and the reports filed electronically will be available for viewing by the public on the Internet. The current electronic reporting system for lobbyist became operational in January, 2001 for the December, 2000, reports, which were to be filed by lobbyists by January 10, 2001.*

The data collected and made available to the public by these two electronic reporting systems satisfies the electronic reporting requirements of Chapters 105 and 130 in terms of the information that must be reported by lobbyists and for campaign finance reporting purposes.

- B. *The Auditor's Report recommends that the electronic reporting system should include Personal Financial Disclosure Statements (PFD). During past hearings, meetings, and other communications with state officials concerning development of electronic reporting systems, the issue of incorporating PFDs was not included as a required component of the electronic reporting systems. However, after review by legal council, Sec. 130.057 RSMo, could be interpreted to include one type of PFD in the requirement for electronic reporting. Specifically, the current wording of Sec. 130.057.2 RSMo, could be interpreted to require or authorize the electronic reporting of PFDs by candidates, but not by persons who are required to file PFDs for any of the other reasons for which a PFD must be filed. This information notwithstanding, an electronic reporting system for PFDs could be developed with appropriate funding, but if it is to include all PFDs, it would require appropriate changes to the statutes.*

The Auditor's Report also addresses the issue of the functionality of the current web-based system. Specifically, the report states that the Commission's system does not have the same level of functionality as certain other states's electronic reporting systems, and recommends that the Commission's system be upgraded to provide more functionality. While it is somewhat problematic to make direct comparisons among the electronic reporting systems of various states for a number of reasons, including the differences in statutory reporting requirements, levels of funding, and length of experience with electronic reporting, the Commission will continue to improve the functionality of the electronic reporting systems through the installation of modifications and upgrades to the systems. Specifically, the Commission staff will implement modifications and upgrades that will increase the searchability of lobbyist and campaign finance reports posted on the Commission website, and will provide for the creation of user-defined reports. The timing and extent of these modifications will in part be determined by available funding.

The Auditor's Report also addresses a contract for an electronic reporting system entered into by the state and a private contractor prior to the implementation of the current web-based system. The state filed a lawsuit against that contractor, and the litigation was ultimately settled by court-ordered mediation. The Commission notes that state procedures concerning the requests for and award of bids were observed during all phases of that contract.

3. Assessment of Late Filing Fees
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The MEC did not assess penalties for late filings of monthly expenditure reports by lobbyists from January 1, 1998 through January 31, 2001. Section 105.492.5, RSMo 2000, requires the MEC to assess penalties for lobbyists that file late monthly expenditure reports. In addition, the MEC has not assessed penalties for late campaign finance

disclosure reports since 1997. Section 130.056.2(9), RSMo 2000, requires the MEC to assess penalties for late campaign finance disclosure reports. The law does not authorize the MEC to waive late filing penalties.

The MEC decided to suspend assessing penalties for late lobbyist reports because the law required lobbyists to file reports electronically but the electronic system was not working properly and was often unreliable. In addition, the electronic database could not generate an accurate and complete report of late filers.

For campaign finance disclosure, manual reporting was still optional for many candidates and/or committees. However, MEC officials indicated they were unsure if they could assess penalties on late filers because the electronic system was not working properly and, as a result decided to suspend assessing penalties.

The purpose of the late filing penalty is to encourage compliance with the timeliness requirements of the applicable statutes. Failure to assess these penalties nullifies their deterrent effect and could lead to greater noncompliance. In addition, the law does not authorize the MEC to postpone the billing of these penalties; instead, it requires the MEC to provide timely notification to late and/or non-filers.

WE RECOMMEND the MEC assess late filing fees in accordance with state laws and bill for those fees on a timely basis.

AUDITEE'S RESPONSE

The Auditor's Report recommends that late fees be assessed on a timely basis. The Commission agrees, and late fees are currently being assessed on a timely basis.

4. Report Review and Auditing Procedures

The MEC is required by law to maintain files of lobbyist reports, campaign finance disclosure reports, and personal financial disclosure reports for public inspection. The law requires the MEC to review and audit these reports for timeliness, accuracy, and completeness. However, the MEC does not audit these reports unless a complaint is filed under Section 105.472, RSMo 2000. The following describes the current review process:

Lobbyist reports

Lobbyists are required to manually register with the MEC. Once registered, the MEC provides the lobbyist a username and a password, which the lobbyist uses to file the monthly expenditure reports electronically using the internet. Edit checks within the electronic reporting system help ensure the form is mathematically accurate and all required fields are properly completed before the report is accepted into the reporting system. In addition, the system generates lists of non-filers as well as late filers and the MEC reviews these lists on a monthly basis.

Campaign finance disclosure reports

Campaign finance disclosure reports are filed throughout the year by various candidates and committees. The MEC reviews each of these reports for timeliness and ensures the reports are filled out properly and signed. In addition, the MEC performs crosschecks of contributions received and disbursed for some candidates and committees. However, these crosschecks are only documented when errors are noted.

Personal financial disclosure reports

Personal financial disclosure reports are filed throughout the year by candidates for election, elected officials, individuals appointed to office, and various other individuals. The MEC reviews each of these reports for timeliness, proper signature, and proper reporting period. In addition, the MEC maintains a database of all known required filers and applicable filing deadlines which allows the MEC to identify potential non-filers.

Section 105.955.14(2), RSMo 2000, requires the MEC to review and audit the reports noted above for timeliness, accuracy, and completeness. Section 105.959.1 requires the MEC to review reports and statements filed pursuant to Section 105.470 (**Lobbyist**), Section 105.483 (**Financial Interest**), and Chapter 130 (**Campaign Finance**) for completeness, accuracy, and timeliness, and upon review, if there are reasonable grounds to believe that a violation has occurred, shall conduct an audit of such reports and statements. In addition, Section 105.955.14(3), RSMo 2000, requires cross-checks of information included in such statements and reports and Section 130.032.7, RSMo 2000, requires a review for campaign contribution limits.

It appears the MEC is adequately reviewing reports for timeliness and ensuring these reports are filled out properly and signed. In addition, the MEC performs some crosschecks. However, the MEC cannot determine if reports are accurate and complete unless the MEC performs audits of reports.

While it would not be feasible to audit about 2,100 monthly lobbyist reports, about 9,000 annual personal financial disclosure reports, and about 11,700 campaign finance disclosure reports in a major election year (about 4,000 reports are received in other years), it would be feasible to audit a sample of each type of report. Such audits should include a review of supporting documentation to verify the accuracy and completeness of information reported (i.e., expenditures, contributions, income, etc.). Auditing a sample of reports would provide assurance as to the accuracy and completeness of the reporting process and possibly act as a deterrent and prevent inaccurate or fraudulent reporting. The MEC should establish formal written procedures to document their auditing and crosschecking strategies and proposed sampling methods.

WE RECOMMEND the MEC perform audits of the various reports to ensure the accuracy and completeness of the reporting process.

AUDITEE'S RESPONSE

The Auditor's Report recommends that the Commission perform audits of reports filed with the agency to ensure the accuracy and completeness of the reporting process. The Commission takes note of the recommendations and will increase the number of audits that are performed. Specifically, the Campaign Finance Section requested and the Information Services Section has developed a computer program that randomly selects 5% of the reports from the various types of committees that file reports with the Commission. As a result, after each filing period, 5% of the reports from the various committees are being randomly selected and audited, cross checks are being performed, and all data is retained for examination in future audits.

5. Information System Policies and Procedures
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The MEC has not established policies and procedures for all aspects of its electronic information system. Currently, the MEC only has draft procedures for the electronic lobbyist reporting system and the web page. Written policies and procedures have not been prepared for:

- a) Establishing, maintaining, and terminating user IDs and passwords - Procedures are essential to protect data from unauthorized access and to prevent intentional or unintentional modification, disclosure, or deletion of applicable information.
- b) Maintaining program documentation and operating instructions - Program documentation should be properly documented and maintained. In addition, operating instructions should be readily available to staff to allow for more efficient and effective use of these programs to generate reports or run queries.
- c) Producing reports - A report production list would help ensure that applicable staff are aware of their responsibilities and that all reports are generated accurately and timely.
- d) Changing software - Procedures for software and programming changes are essential to prevent unauthorized changes.
- e) Backing-up data - Procedures for backing-up data are essential to minimize the impact of the loss of original data.
- f) Disaster recovery - Procedures are needed for disaster recovery and contingency planning. Procedures need to include testing backed-up data to ensure critical operations can continue without interruption when unexpected events occur (fire, weather, or sabotage).

The MEC has changed various aspects of its operations from manual reporting to electronic filing. The changing information system environment at the MEC should be addressed in formal written policies and procedures which would establish lines of authority for software changes, production of reports, programming documentation, backing-up data, and disaster recovery planning.

WE RECOMMEND the MEC establish formal written policies and procedures for all aspects of its electronic information system.

AUDITEE'S RESPONSE

The Auditor's Report recommends that the Information Services Section establish policies and procedures for all aspects of its electronic information system. The Commission agrees with this recommendation, and the Information Services Section is reviewing and updating its policies and procedures accordingly.

6. Personnel Policies and Procedures

- A. The MEC follows the Office of Administration, Division of Personnel guidelines for performance appraisals, which requires supervisors to conduct an annual performance appraisal for each employee.

We reviewed the personnel files for all current employees and none of the files contained written appraisals. Some directors informed us they may meet with an employee to consider salary increases or promotions but the meeting may not be documented in a written appraisal. Other directors informed us they may prepare a written appraisal but these are maintained in the director's files and not included in the employee's personnel file.

Performance appraisals can be used to document and support decisions on salary increases, promotions, and other personnel actions. In addition, appraisals can lead to improvements in overall work quality.

- B. The MEC does not require prospective employees to complete applications for employment. We reviewed the personnel files for all current employees and none of them contained an application for employment. Although most of the personnel files contained a resume, the use of a standard employment application would ensure consistency in the information provided by prospective employees. In addition, the MEC does not routinely contact persons listed as references nor document any reference or background checks that are made.

The MEC should require individuals seeking employment to submit an application for employment to document their qualifications. In addition, the MEC should perform reference and background checks to verify an applicant's

qualifications and history. The applications and documentation of reference and background checks should be retained on file by the MEC.

WE RECOMMEND the MEC:

- A. Prepare written performance appraisals for all employees on a periodic basis.
- B. Require individuals seeking employment to complete an employment application and perform and retain documentation of reference and background checks.

AUDITEE'S RESPONSE

The Auditor's Report recommends that the agency prepare written performance appraisals for all employees on a periodic basis and place the appraisals in the employee's personnel file rather than perform appraisals at the individual Section level. The Auditor's Report also recommends that the agency require individuals seeking employment with the Commission to complete an employment application and perform and retain documentation of reference and background checks.

The Commission concurs with these recommendations and has taken the appropriate steps to address them. Specifically, the Commission will utilize the annual performance appraisals currently used by the Office of Administration, and will place performance appraisals in each employee's personnel file. The members of the management team have previously completed performance appraisal training from the Office of Administration, and will renew that training as needed.

The Commission staff has also prepared a draft application form to be used by applicants for positions with the agency. The draft form has been reviewed by the Attorney General's staff, and will be finalized, presented to the Commission for their approval, and sent to Office of Administration Forms Management to be assigned a form number. Upon completion of this process, the application form will be provided to all future applicants for positions with the Commission, as per the Auditor's recommendation.

This report is intended for the information of the management of the Missouri Ethics Commission and other applicable government officials. However, this report is a matter of public record and its distribution is not limited.

HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION
HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

The Missouri Ethics Commission (MEC) was created by the Missouri Ethics Law of 1991 (Section 105.955, RSMo). The law provides for the MEC to have responsibilities for the enforcement of conflict of interest and lobbying laws (Section 105.450-498, RSMo) and campaign finance disclosure laws (Chapter 130, RSMo). The MEC also issues official opinions that the requestor may rely on as a defense. The MEC is assigned to the Office of Administration for budgeting purposes only. The Office of Administration has no supervision over MEC policies for enforcement functions.

The MEC receives and reviews complaints alleging violations of the conflict of interest and lobbying statutes and the campaign finance disclosure statutes. The MEC also receives complaints on violations on any code of conduct promulgated by any department, division, agency of state government, or by institutions of higher learning or by executive order and can also review complaints dealing with the provision of any part of the state constitution, state statute, city ordinance or resolution relating to the official conduct of officials. After investigation of these complaints, the MEC refers the complaints to the appropriate prosecuting authority or disciplinary authority along with recommendations for sanctions. The MEC may also initiate judicial proceedings on its own.

The MEC reviews and audits reports required by the campaign finance disclosure law, the financial interest disclosure laws, and the lobbying registration and reporting laws. The MEC acts as the public repository for such reports. The MEC provides information, assistance, and advisory opinions where applicable to lobbyists, elected and appointed officials, employees of the state and political subdivisions, and the general public.

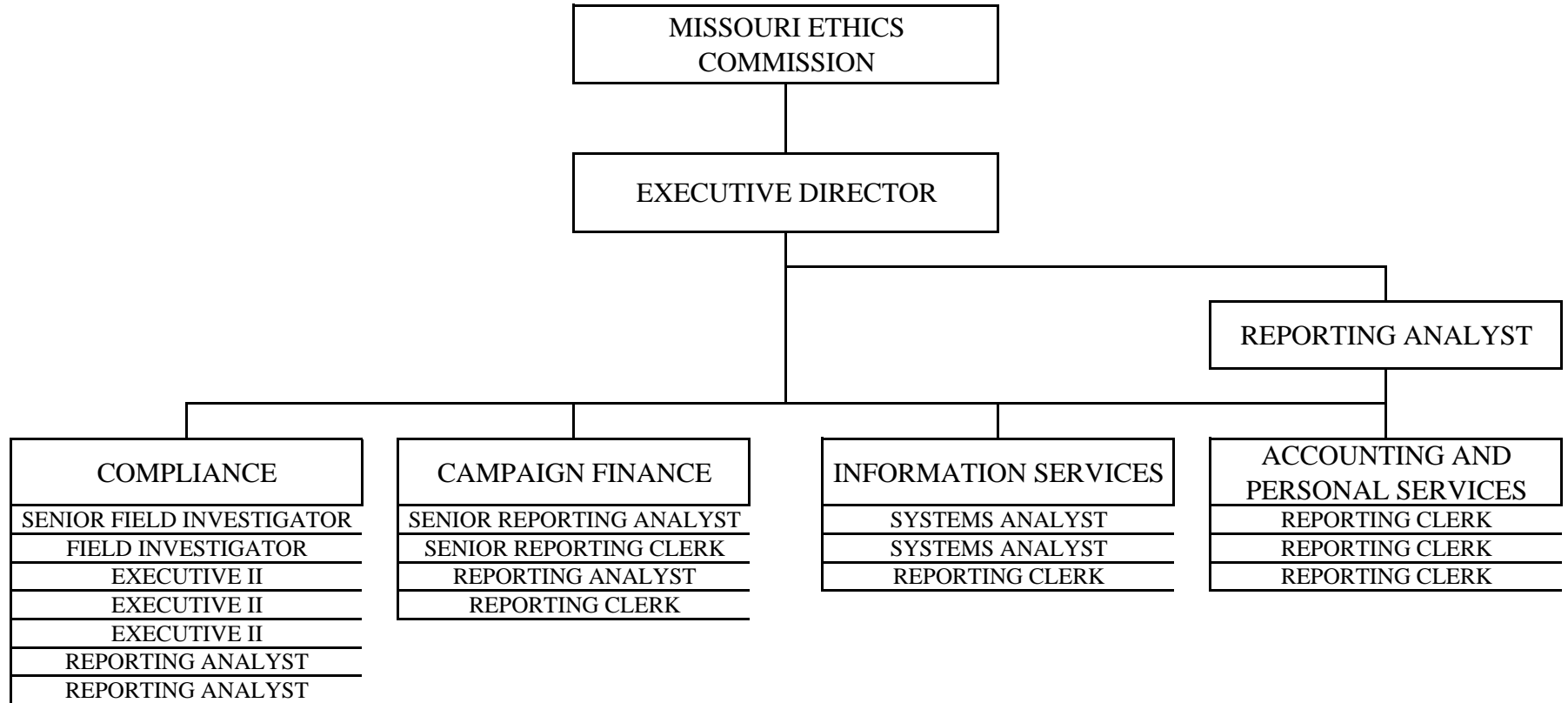
The MEC is composed of six members, not more than three of whom may be of the same political party. Members are appointed to four-year terms, must be from different congressional districts, and no more than three can be from an odd- or even-numbered congressional district. The governor appoints members of the MEC from names submitted by congressional district committees. There are restrictions on succeeding party members representing the same congressional district. By law, MEC members receive compensation of \$100 per day for each full day of work and reimbursement of actual and necessary expenses incurred. Members of the Missouri Ethics Commission as of August 2001, were:

<u>Name</u>	<u>Term Expires</u>
Mike Greenwell, Chairman	March 15, 2002
Donald Gann, Vice Chairman	March 15, 2002
Elaine F. Spielbusch	March 15, 2002
James E. Spain	March 15, 2004
Sandra Donahue	March 15, 2004
Philip Conger	March 15, 2004

The MEC employs nineteen full-time personnel with three vacant positions.

The organization chart follows.

OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION
ORGANIZATION CHART
JUNE 30, 2001



Appendix A

OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION
COMPARATIVE STATEMENT OF APPROPRIATIONS AND EXPENDITURES

Year Ended June 30,						
2001			2000			
		Lapsed			Lapsed	
	Appropriations	Expenditures	Balances	Appropriations	Expenditures	Balances
GENERAL REVENUE - STATE						
Expense and equipment	\$ 753,727	556,330	197,397	522,382	461,209	61,173
Personal service	956,283	812,037	144,246	896,039	700,455	195,584
Public access software	90,000	0	90,000	277,400	187,400	90,000
Lobbyist law enforcement	5,000	0	5,000	5,000	0	5,000
Building lease	45,168	43,813	1,355	45,168	45,168	0
Total General Revenue Fund	\$ 1,850,178	1,412,180	437,998	1,745,989	1,394,232	351,757

Appendix B

OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION
COMPARATIVE STATEMENT OF EXPENDITURES (FROM APPROPRIATIONS)

	Year Ended June 30,	
	2001	2000
Personal service	\$ 812,037	700,455
Travel	56,664	52,965
Office expense	84,681	75,953
Supplies	1,597	3,931
Memberships	1,110	410
Conferences and training	14,220	2,745
Tuition	8,632	1,389
Communication expense	29,701	37,452
Printing, binding, and advertising	32,117	83,945
Professional services	32,637	220,659
Repair and maintenance	21,617	11,641
Computer equipment and software	195,443	145,286
Office and communication equipment	37,624	7,008
Building lease	43,813	45,168
Computer lease and fees	34,950	0
Other	5,337	5,225
Total Expenditures	\$ <u>1,412,180</u>	<u>1,394,232</u>

Appendix C

OFFICE OF ADMINISTRATION
MISSOURI ETHICS COMMISSION
COMPARATIVE STATEMENT OF RECEIPTS
GENERAL REVENUE FUND - STATE

	Year Ended June 30,	
	2001	2000
Lobbyists registration fees	\$ 2,340	1,760
Penalties	22,009	36,411
Fees for copying public records	15,713	14,343
Other	57	25
Total Receipts	<u>\$ 40,119</u>	<u>52,539</u>

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